

FILED

SEP 25 2017

Clerk, U.S. District Court
District Of Montana
Billings

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

SKY MIGUEL LITTLE COYOTE,

Defendant/Movant.

Cause No. CR 10-15-BLG-SPW

ORDER

This case comes before the Court on Defendant/Movant Little Coyote's motion to vacate, set aside, or correct his sentence, pursuant to 28 U.S.C. § 2255. Little Coyote is a federal prisoner proceeding pro se.

Little Coyote's term of supervised release was revoked on September 6, 2017. His attorney timely filed a notice of appeal on September 20, 2017.

A § 2255 motion is the equivalent of a petition for writ of habeas corpus. *See, e.g., United States v. Hayman*, 342 U.S. 205, 210-19 (1952). "Habeas review is an extraordinary remedy and will not be allowed to do service for an appeal." *Bousley v. United States*, 523 U.S. 614, 621 (1998) (quoting *Reed v. Farley*, 512 U.S. 339, 354 (1994), and *Sunal v. Large*, 332 U.S. 174, 178 (1947)). District courts do not consider § 2255 motions before a conviction becomes final. *See, e.g., Feldman v. Henman*, 815 F.2d 1318, 1320 (9th Cir. 1987) (as amended);

United States v. Deeb, 944 F.2d 545, 548 (9th Cir. 1991); Rule 5, Rules Governing § 2255 Proceedings for the United States District Courts, advisory committee's note (quoting *Womack v. United States*, 395 F.2d 630, 631 (D.C. Cir. 1968)); *see also United States v. Pirro*, 104 F.3d 297, 299-300 (9th Cir. 1997).

Consequently, a § 2255 motion will not be entertained unless and until direct appeal is exhausted. No action will be taken on any further § 2255 motions or other petitions seeking collateral review until Little Coyote's conviction becomes final by the conclusion of all proceedings on appeal, including any petition for writ of *certiorari* to the United States Supreme Court. *See Griffith v. Kentucky*, 479 U.S. 314, 321 n.6 (1987). When it is the appropriate time to file a § 2255 motion, Little Coyote will be required to assert in one motion all claims for relief he wishes the Court to consider. *See generally* 28 U.S.C. §§ 2255(h), 2244(b).

This law is well-settled. A certificate of appealability is not warranted. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

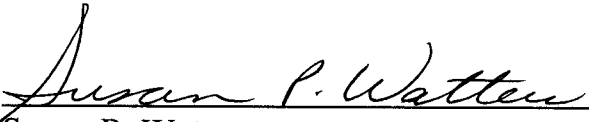
Accordingly, IT IS HEREBY ORDERED:

1. Little Coyote's motion under 28 U.S.C. § 2255 (Doc. 93) is
DISMISSED.

2. A certificate of appealability is DENIED. The Clerk of Court shall immediately process the appeal if Little Coyote files a Notice of Appeal;

3. The Clerk of Court shall ensure that all pending motions in this case and in CV 17-126-BLG-SPW are terminated and shall close the civil file by entering a judgment of dismissal.

DATED this 25th day of September, 2017.



Susan P. Watters
United States District Court